IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2559 OF 2006

Sukumari S.Jha ..Petitioner

Vs.

Ashok Dewan & Anr. ..Respondents

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Mr.Mohan A.Dharmaraj advocate for Petitioner
Mr.K.S.Patil advocate for Respondent No.1
Mr.Rajesh More A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : MARCH 5, 2007

P.C.

1. Heard the learned advocate for the petitioner, the learned advocate for the respondent no.1-original complainant and the learned A.P.P. for the State. The learned advocate for the respondent no.1-original complainant states that he will file Vakalatnama on behalf of complainant within two days.

2. The petitioner is seeking quashing of process issued by the learned 44th Metropolitan Magistrate's Court at Andheri, Mumbai in

C.C.No.202/SS of 2006. In the said case process is issued under Section 138 of Negotiable Instruments Act.

3. However, for the reasons recorded in the order passed by this Court in the case of **V.K.Jain Vs. P.V.Padode; 2005(3) Mh.L.J.778,** I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks. The learned counsel for the respondent no.1-original complainant, makes a statement that no objection will be raised in respect of the

condonation of delay in preferring revision before the Sessions Court. In view of this statement, the learned Sessions Judge shall condone the delay if any in preferring the revision.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]